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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
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15 JUSTIN CODY HARPER,

16 Plaintiff,

17 v.

18 CITY OF REDLANDS, REDLANDS
19 POLICE DEPARTMENT, POLICE
20 OFFICER KOAHOU, and DOES 1
21 through 10, inclusive,

22 Defendants.

Case No.: 5:23-CV-00695-SSS (KK)

Judge: Hon. Sunshine S. Sykes

DEFENDANTS' REPLY IN SUPPORT
OF MOTION TO STAY TRIAL
BASED ON PENDING APPEAL

Date: May 2, 2025

Time: 2:00 p.m.

Ctrm: 2

22 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 Defendants CITY OF REDLANDS and OFFICER KOAHOU hereby
24 submits this Reply in Support of their Motion to Stay Trial Based on Pending
25 Appeal. As set forth both in the moving papers and in this Reply, Defendants
26 submit that the filing of the Interlocutory Appeal divested this Court of jurisdiction
27 to proceed with the trial in this case and, accordingly, the motion to stay should be
28 granted.

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MEMORANDUM OF POINTS AND AUTHORITIES

**1. A STAY SHOULD ISSUE BECAUSE THE PENDING
INTERLOCUTORY APPEAL ON THE DENIAL OF QUALIFIED
IMMUNITY DIVESTS THIS COURT OF JURISDICTION TO
PROCEED WITH TRIAL**

The parties have filed companion motions in this case representing two sides of the same coin: Defendants have asserted that the filing of the Interlocutory Appeal divests this Court of jurisdiction to proceed with trial; and Plaintiff has asserted that the Interlocutory Appeal is frivolous.

With respect to the Motion to Stay, Plaintiff does not appear to dispute that generally the filing of a notice of appeal would divest this Court of jurisdiction.

See *Griggs v. Provident Consumer*, 459 U.S. 56, 58 (1982) (per curiam); *United States v. Clairborne*, 727 F.2d 842, 850 (9th Cir. 1984); Nelson, Goelz & Watts, Fed. Ninth Cir. Civ. App. Prac. (The Rutter Group 2022) (“9th Cir. Rutter Guide”) § 3:406. Instead, Plaintiff merely reiterates its position that no stay is warranted because he believes the appeal to be frivolous.

Since Plaintiff has not advanced any arguments in addition to those already contained in the companion motion, there is nothing new to add by virtue of reply which has not already been discussed by the parties in the companion motion.

2. CONCLUSION

Accordingly, because this Court has been divested of jurisdiction by virtue of the filing of the interlocutory appeal, and because Plaintiff has failed to carry his extremely high burden of demonstrating Defendants' appeal of purely legal issues is frivolous, Defendants respectfully request that the trial be stayed pending the outcome of the Ninth Circuit's ruling on the pending qualified immunity appeal.

See *Griggs v. Provident Consumer*, 459 U.S. at 58; *United States v. Clairborne*, 727 F.2d at 850; (9th Cir. 1984); 9th Cir. *Rutter Guide* § 3:406. Such a ruling is necessary to preserve the *status quo ante* and to ensure that the Ninth Circuit is not

1 deprived of its proper appellate jurisdiction by engaging in action which would
2 render the appeal moot.

3 Dated: April 16, 2025

JONES MAYER

4 */s/ Scott Wm. Davenport*

5 By:

6 JAMES R. TOUCHSTONE
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CERTIFICATE OF COMPLIANCE

2 The undersigned, counsel of record for CITY OF REDLANDS and
3 OFFICER KOAHOU, certifies that this brief contains 593 words, which complies
4 with the word limit of Local Rule 11-6.1.

5 || Dated: April 16, 2025

JONES MAYER

/s/ *Scott Wm. Davenport*

By: SCOTT WM. DAVENPORT

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